IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4299 OF 2007

Yeshswant Ghadgenagar Co-op. Hsg. Sco. Ltd. ....Petitioner.
V/s
State of Maharashtra & Ors.... ....Respondents.

Mr.Chetan Agarwal, Adv. for the petitioner.

Mr.V.B.Naik i/by Mr.Sarang Aradhye, Adv. For respondent No.2.

CORAM: A.P.DESHPANDE, J.
24/7/07

PC:

Rule. Rule made returnable forthwith.

Taken up for final hearing by consent of parties.

The present petitioner is the disputant before the Cooperative Court and the case of the disputant is that the respondent is carrying on construction in violation of bylaws of the society. In the pending dispute an application was moved claiming temporary injunction restraining the respondent from carrying on the construction on plot No.2 and/or from creating third party interest therein. The trial Court being of the view that the disputant has made out prima facie case granted temporary injunction by an order dated 11.5.07. Aggrieved by the said order the present respondent preferred an appeal against the order bearing No.84/97 before the Maharashtra State Cooperative Appellate Court, Mumbai and along with the said appeal an application for stay of the impugned order passed by the Cooperative Court. The Appellate Court granting the application moved by respondent has stayed the impugned order which restrained the respondent herein from carrying out

construction and/or creating third party interest therein.

2. This Court by an order dated 5.6.07 has granted ad-interim stay to the impugned order dated 17.3.07 passed by the Cooperative Appellate Court.

3. The learned counsel appearing for the contesting respondent No.2 submits that order dated 5.6.07 granting stay to the impugned order be continued till decision of the appeal pending on the file of Cooperative Appellate Court by making a statement that the respondent will not carry out any construction and/or create third party interest in the property till disposal of the appeal. The learned counsel submits that expeditious disposal of the appeal be sought so that the respondent herein does not suffer undue hardship and inconvenience on account of operation of injunction. Learned counsel for the petitioner has no objection. He assures that the petitioner would cooperate in having early disposal of the appeal by the Cooperative Appellate Court. In this view of the matter, on concession I direct the Cooperative Appellate Court to decide the appeal as expeditiously as possible preferably within a period of three months from today. Till the decision of the appeal the impugned order dated 17.5.07 passed by the Cooperative Appellate Court shall remain stayed. It is made clear that all contentions are left open to be addressed before the Cooperative Appellate Court and the Cooperative Appellate Court shall proceed to decide the appeal in accordance with law uninfluenced by this order. Rule made absolute in above terms.

24.7.07